1 2 3 4 5 6 7	Kamala D. Harris Attorney General of California Janice K. Lachman Supervising Deputy Attorney General Elena L. Almanzo Deputy Attorney General State Bar No. 131058 1300 I Street, Suite 125 P.O. Box 944255 Sacramento, CA 94244-2550 Telephone: (916) 322-5524 Facsimile: (916) 327-8643 Attorneys for Complainant	
8 9 10	BEFORE THE BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
11	In the Matter of the Accusation Against:	Case No. 2013 - 783
12	CATHLEEN MARGARET OTT,	·
13	aka CATHLEEN M. SPOTTS, aka CATHLEEN MARGARET SPOTTSOTT,	ACCUSATION
14	aka CATHLEEN MARGARET SPOTTS P. O. Box 692651 Stockton, CA 95269	
15	Registered Nurse License No. 206391	
16	Respondent.	
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18	Complainant alleges:	
19	PARTIES	
20	1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her	
21	official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),	
22	Department of Consumer Affairs.	
23	2. On or about March 31, 1970, the Board issued Registered Nurse License Number	
24	206391 to Cathleen Margaret Ott, also known as Cathleen M. Spotts, Cathleen Margaret	
25	Spottsott, and Cathleen Margaret Spotts ("Respondent"). Respondent's registered nurse license	
26	expired on March 31, 2012.	
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## STATUTORY AND REGULATORY PROVISIONS

- 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that the Board may discipline any licensee for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.
  - 5. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- (a) Unprofessional conduct, which includes, but is not limited to, the following:
- (1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.
- (f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof . . .

#### 6. Code section 2765 states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a registered nurse is deemed to be a conviction within the meaning of this article. The board may order the license or certificate suspended or revoked, or may decline to issue a license or certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

7. California Code of Regulations, title 16, section ("Regulation") 1442 states:

As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which

the nurse knew, or should have known, could have jeopardized the client's health or life.

8. Regulation 1443 states:

As used in Section 2761 of the code, "incompetence" means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5.

## **COST RECOVERY**

9. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

#### FIRST CAUSE FOR DISCIPLINE

## (Gross Negligence)

- 10. In and between 2007 and July 2009, Respondent was employed as a registered nurse for Maxim Healthcare Services, a home healthcare service company located in Stockton, California.
- 11. On or about June 19, 2009, patient H. A., a 15 month old male toddler, was admitted to service with diagnoses including seizures, developmental delay, brain anomaly, age-related developmental needs, secundum atrial septal defect, and gastrostomy status. Various durable medical equipment were maintained in the patient's home, including oxygen tubing, an Ambu bag with face mask (infant), oxygen tanks, and an oxygen concentrator. The patient's functional limitations included 02 SATS, total ADL care, and continuous supplemental oxygen. The patient's initial admission summary stated "client has episodes of desaturation which requires 02 at 2-5 LPM via mask". The initial admission orders included the following:
  - SN to administer 2-5 LMP 02 via mask PRN respiratory distress/desaturation.
  - SN to suction mouth for excess secretions PRN.
    - SN to monitor for s/s of respiratory distress or desaturation and notify MD each event.

- 12. On or about July 1, 2009, Respondent was providing care for the patient in his home. The patient went into respiratory distress and stopped breathing. Respondent attempted to perform CPR, then called 911 (the patient's parents were absent at the time of the incident). Respondent admitted to not using an Ambu bag or oxygen. Paramedics arrived within 5 minutes of the emergency call. The paramedics suctioned and "bagged" the patient, then transported him to Lodi Memorial Hospital.
- 13. Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (a)(1), on the grounds of unprofessional conduct, in that on or about July 1, 2009, Respondent was guilty of gross negligence in her care of the patient within the meaning of Regulation 1442, as follows:
- a. Respondent failed to follow the guidelines for cardiopulmonary resuscitation in that Respondent failed to place the patient on a firm surface to assure effective chest compressions (Respondent reported that she picked the patient up and put him on the sofa on top of a "Bobby Pillow", claiming that it was the firmest surface she could find); failed to apply suction; failed to apply the Ambu bag to assist with the patient's breathing; and failed to apply oxygen.
- b. Respondent failed to check all life sustaining equipment in the patient's home at the commencement of her shift to ensure that the equipment was in functional order and available for use as needed for the patient, who had multiple risk factors.
- c. Respondent failed to follow the physician's orders when she failed to apply oxygen and failed to suction the patient to maintain airway patency.

## SECOND CAUSE FOR DISCIPLINE

#### (Incompetence)

- 14. Complainant incorporates by reference as though fully set forth herein the allegations contained in paragraphs 10 through 12 above.
- 15. Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (a)(1), on the grounds of unprofessional conduct, in that on or about July 1, 2009, Respondent was guilty of incompetence in her care of the patient within the meaning of Regulation 1443, as set forth in paragraph 13 above.

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#### THIRD CAUSE FOR DISCIPLINE

#### (Criminal Conviction)

16. Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (f), in that on or about August 30, 2010, in Calaveras County Superior Court, Case No. 10T17962, Respondent pled guilty to violating Vehicle Code section 20002, subdivision (a) (hit and run, property damage), a misdemeanor, a crime substantially related to the qualifications, functions, and duties of a registered nurse. The circumstances of the crime are as follows: On or about July 17, 2010, Respondent was backing her vehicle in a southerly direction on a private driveway while attending a garage sale. Respondent was backing the vehicle unsafely, causing her left rear tire to leave the paved portion of the driveway. The vehicle slid down a dirt embankment and struck a wooden fence at a nearby residence. A witness at the scene used his vehicle to pull Respondent's vehicle up from its point of rest. The witness told Respondent who owned the fence. Respondent made no effort to provide her personal or insurance information to the property owner, and left the scene in her vehicle.

## **PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 1. Revoking or suspending Registered Nurse License Number 206391, issued to Cathleen Margaret Ott, also known as Cathleen M. Spotts, Cathleen Margaret Spottsott, and Cathleen Margaret Spotts;
- 2. Ordering Cathleen Margaret Ott, also known as Cathleen M. Spotts, Cathleen Margaret Spottsott, and Cathleen Margaret Spotts, to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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1	3. Taking such other and further action as deemed necessary and proper.	
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3	DATED: MARCH 18, 2013 At MUL TRUE (LOUISER BAILEY MED RN	
4	LOUISE R. BAILEY, M.ED., RN Executive Officer Board of Registered Nursing	
5	Board of Registered Nursing Department of Consumer Affairs State of California	
6	Complainant	
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Accusation